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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,799	07/25/2001	Noel Enete	06975-133001	4883
26171	7590	10/05/2004	EXAMINER	
FISH & RICHARDSON P.C. 1425 K STREET, N.W. 11TH FLOOR WASHINGTON, DC 20005-3500			GOLD, AVI M	
		ART UNIT		PAPER NUMBER
				2157

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/911,799	ENETE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Avi Gold	2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 25 July 2001.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-25 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/8/02, 8/8/02, 5/13/04.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

### **DETAILED ACTION**

This action is responsive to the application filed July 25, 2001. Claims 1-25 are pending. Claims 1-25 represent video messaging.

#### ***Specification***

1. The disclosure is objected to because of the following informalities: status of related applications needs to be updated. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 8, 10-15, 20, 21, 23, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by DeSimone et al., U.S. Patent No. 6,212,548.

DeSimone teaches the invention as claimed including systems and methods for establishing and maintaining multiple simultaneous asynchronous message sessions

between overlapping or non-overlapping sets of users in data communications contexts, such as Internet chat sessions (see abstract).

Regarding claim 1, DeSimone teaches a communications method, comprising: enabling instant messaging communication between a sender and at least one recipient through an instant messaging host (col. 1, lines 25-33, DeSimone discloses Internet Relay Chat); and

enabling video communication between the sender and the recipient through the instant messaging host (col. 1, lines 45-47, DeSimone discloses video communication through chat).

Regarding claim 2, DeSimone teaches the method of claim 1 further comprising receiving and authenticating a text instant from the sender at the instant messaging host (col. 5, lines 35-43, DeSimone discloses a unique identifier associated with a user).

Regarding claim 3, DeSimone teaches the method of claim 2 wherein authenticating comprises identifying a screen name associated with at least one of the sender and the recipient (col. 5, lines 44-45, DeSimone discloses a chat nickname).

Regarding claim 4, DeSimone teaches the method of claim 3 wherein authenticating comprises identifying an IP address associated with at least one of the

sender and the recipient (col. 5, lines 44-45, DeSimone discloses an IP address associated with a user).

Regarding claim 5, DeSimone teaches the method of claim 1 further comprising determining capabilities of the recipient at the instant messaging host (col. 5, lines 16-21, DeSimone discloses servers that have message handling information of recipients).

Regarding claim 8, DeSimone teaches the method of claim 5 further comprising reporting the capabilities of the recipient to the sender (col. 5, lines 16-21).

Regarding claim 10, DeSimone teaches the method of claim 1 further comprising receiving, at the instant messaging host, a request to establish video communication (col. 5, lines 46-48, col. 15, lines 58-63, DeSimone discloses conversations initiated by the sender and video messages).

Regarding claim 11, DeSimone teaches the method of claim 10 wherein the request is from the sender (col. 5, lines 46-48).

Regarding claim 12, DeSimone teaches the method of claim 10 wherein the request is from the recipient (col. 5, lines 55-58, DeSimone discloses that any participant can make requests).

Regarding claim 13, DeSimone teaches the method of claim 10 further comprising authenticating the request (col. 5, lines 35-43).

Regarding claim 14, DeSimone teaches the method of claim 13 wherein authenticating comprises identifying a screen name associated with at least one of the sender and the recipient (col. 5, lines 44-45).

Regarding claim 15, DeSimone teaches the method of claim 13 wherein authenticating comprises identifying an IP address associated with at least one of the sender and the recipient (col. 5, lines 44-45).

Regarding claim 23, DeSimone teaches the computer program of claim 21, wherein the computer readable medium comprises a client device (col. 1, lines 25-33, DeSimone discloses software on a user terminal).

Regarding claim 24, DeSimone teaches the computer program of claim 21, wherein the computer readable medium comprises a host device (col. 1, lines 25-33, DeSimone discloses a chat room maintained on a chat server).

Claims 20 and 21 do not teach or define any new limitations above claims 1 and therefore are rejected for similar reasons.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeSimone further in view of Doty, Jr., U.S. Patent No. 6,795,863.

DeSimone teaches the invention substantially as claimed including systems and methods for establishing and maintaining multiple simultaneous asynchronous message sessions between overlapping or non-overlapping sets of users in data communications contexts, such as Internet chat sessions (see abstract).

As to claims 6, 7, and 9, DeSimone teaches the method of claims 5 and 8.

DeSimone fails to teach the limitation further including the identifying hardware and software associated with the recipient and the sender displaying a user interface according to the capabilities of the recipient.

However, Doty, Jr. teaches a plurality of client recipient computers, wherein the video streams may be embedded into a web page that provides e-mail services, preferably over the Internet (see abstract). Doty, Jr. teaches the use of a recipient computer specifying its hardware and software capabilities (col. 8, lines 45-50) and a product distribution smart server basing its data stream format on recipient capabilities (col. 8, lines 54-58).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify DeSimone in view of Doty, Jr. to identify hardware and software associated with the recipient and have the sender display a user interface according to the capabilities of the recipient. One would be motivated to do so because it would allow for the recipient to view the video communication at the best possible quality and to avoid errors in viewing.

6. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeSimone further in view of Wan et al., U.S. Patent No. 6,529,475.

DeSimone teaches the invention substantially as claimed including systems and methods for establishing and maintaining multiple simultaneous asynchronous message sessions between overlapping or non-overlapping sets of users in data communications contexts, such as Internet chat sessions (see abstract).

As to claims 16-19, DeSimone teaches the method of claim 1.

DeSimone fails to teach the limitation further including the video communication comprising establishing a generic signaling interface channel, a control channel, and a video channel between the sender and the recipient.

However, Wan teaches a method and system for improving flow of data traffic within a multimedia communications network by reducing congestion (see abstract). Wan teaches the use of a signaling channel, control channel, and data channel through which video is sent and TCP for the video and control channel (col. 3, lines 24-30) and UDP for the video (col. 3, lines 38-42).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify DeSimone in view of Wan to use a generic signaling interface channel, a control channel, and a video channel between the sender and the recipient. One would be motivated to do so because a UDP channel minimizes latency and a TCP channel is used to pass through firewalls that block UDP.

7. Claims 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeSimone further in view of Lamb et al., U.S. Patent No. 6,747,970.

DeSimone teaches the invention substantially as claimed including systems and methods for establishing and maintaining multiple simultaneous asynchronous message sessions between overlapping or non-overlapping sets of users in data communications contexts, such as Internet chat sessions (see abstract).

As to claims 22 and 25, DeSimone teaches the method of claim 21.

DeSimone fails to teach the limitation further including a computer readable medium comprising a disc and a propagated signal.

However, Lamb teaches a system and techniques providing advanced telecommunications services using connectionless network host(s) for service implementation while using connection-based network equipment for transport of at least a portion of a telecommunications session (see abstract). Lamb teaches the use of a disk and a propagated signal as computer readable mediums (col. 25, lines 11-24).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify DeSimone in view of Lamb to use a computer readable medium

comprising a disc and a propagated signal. One would be motivated to do so because they are both useful and efficient computer readable mediums known in the art.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,748,421 to Ozkan et al.

U.S. Pat. No. 6,677,976 to Parker et al.

U.S. Pat. No. 6,564,248 to Budge et al.

U.S. Pat. No. 5,956,716 to Kenner et al.

U.S. Pat. No. 5,793,365 to Tang et al.

U.S. Pat. No. 5,764,916 to Busey et al.

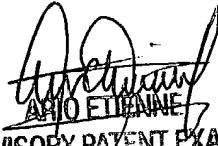
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avi Gold whose telephone number is 703-305-8762. The examiner can normally be reached on M-F 8:00-5:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703-308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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